

IC 9-23-2

Chapter 2. Regulation of Vehicle Merchandising

IC 9-23-2-1

Persons required to be licensed

Sec. 1. The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles:

- (1) An automobile auctioneer.
- (2) A converter manufacturer.
- (3) A dealer.
- (4) A distributor.
- (5) A distributor branch.
- (6) A distributor representative.
- (7) A factory branch.
- (8) A factory representative.
- (9) A manufacturer.
- (10) A transfer dealer.
- (11) A wholesale dealer.

As added by P.L.2-1991, SEC.11. Amended by P.L.268-2003, SEC.25.

IC 9-23-2-2

Application for license; affidavits

Sec. 2. (a) An application for a license under this chapter must:

- (1) be accompanied by the fee required under IC 9-29-8;
- (2) be on a form prescribed by the bureau; and
- (3) contain the information the bureau considers necessary to enable the bureau to determine fully the following information:
 - (A) The qualifications and eligibility of the applicant to receive the license.
 - (B) The location of each of the applicant's places of business in Indiana.
 - (C) The ability of the applicant to conduct properly the business for which the application is submitted.

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or other computer network in aid of its sale of motor vehicles to consumers in Indiana, which activities may result in the creation of business records outside Indiana, shall provide the division with the name, address, and telephone number of the person who has control of those business records. The bureau may not issue a license to a dealer who transacts business in this manner who does not have an established place of business in Indiana.

(d) This subsection applies to an application for a license as a dealer in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000). The application must include an affidavit from:

- (1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists;
who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the application. However, the bureau may not issue a license until the applicant files the affidavit.

As added by P.L.2-1991, SEC.11. Amended by P.L.98-1997, SEC.1; P.L.74-2001, SEC.2; P.L.170-2002, SEC.74.

IC 9-23-2-3

Franchise; filing with bureau

Sec. 3. A manufacturer, distributor, factory branch, distributor branch, or dealer proposing to sell new motor vehicles shall file and maintain with the bureau a current copy of each franchise to which the person is a party, or, if multiple franchises are identical except for stated items, a copy of the form franchise with supplemental schedules of variations from the form.

As added by P.L.2-1991, SEC.11.

IC 9-23-2-4

Display of license; change of business name or location; application for approval of change; affidavit

Sec. 4. (a) The license issued to a factory branch, a distributor branch, an automobile auctioneer, a transfer dealer, or a dealer under this chapter must specify the location of each place of business and shall be conspicuously displayed at each business location.

(b) If a business name or location is changed, the holder shall notify the bureau within ten (10) days and remit the fee required under IC 9-29-8. The bureau shall endorse that change on the license if the bureau determines that the change is not subject to other provisions of this article.

(c) A dealer who uses the Internet or other computer network to facilitate the sale of motor vehicles as set forth in section 2(c) of this chapter shall notify the bureau within ten (10) days upon any change in the name, address, or telephone number of business records located outside Indiana that have been created in transactions made in Indiana by the dealer. A report made under this subsection is not subject to the fee required under IC 9-29-8-5.

(d) This subsection applies to a dealer in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000). A dealer who wants to change a location must submit to the bureau an application for approval of the change. The application must be accompanied by an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants

to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The bureau may not approve a change of location or endorse a change of location on the dealer's license until the dealer provides the affidavit.

(e) For the purpose of this section, an offsite license issued under section 7 of this chapter does not constitute a change of location.

As added by P.L.2-1991, SEC.11. Amended by P.L.98-1997, SEC.2; P.L.74-2001, SEC.3; P.L.170-2002, SEC.75.

IC 9-23-2-5

License issued to representative; name of employer; change of employer; display of license; temporary license for representative

Sec. 5. The license issued to a factory representative or distributor representative must state the name of the employer. Within ten (10) days after a change of employer, the holder shall mail the license to the bureau and indicate the name and address of the holder's new employer. The bureau shall endorse the change on the license and return the license to the licensee in care of the licensee's new employer. A factory representative, distributor representative, or wholesale dealer must have a license when engaged in business and shall display the license upon request. A temporary license for a factory representative or distributor representative may be issued for a period up to one hundred twenty (120) days pending investigation by the bureau of the applicant's qualification for a license.

As added by P.L.2-1991, SEC.11. Amended by P.L.268-2003, SEC.26.

IC 9-23-2-6

Vehicle sales made away from dealer's place of business and without offsite sales license; trade shows

Sec. 6. This section does not apply to sales made at a motor vehicle industry sponsored trade show. A dealer may not sell a vehicle at a location away from the dealer's established place of business without obtaining an offsite sales license under section 7 of this chapter.

As added by P.L.2-1991, SEC.11.

IC 9-23-2-7

Offsite sales license

Sec. 7. (a) Except as provided in subsections (b) and (c), the bureau shall issue an offsite sales license to a dealer licensed under this chapter not later than forty-five (45) days after receipt of the application for the license. License applications under this section shall be made public upon the request of any person. The term of the offsite sales license is not to exceed ten (10) days.

(b) The bureau may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) The bureau may not issue an offsite sales license to a licensed dealer proposing to conduct the sale outside a radius of twenty (20) miles from its established place of business. This subsection does not

apply to:

- (1) new manufactured housing dealers;
 - (2) recreational vehicle dealers; or
 - (3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates.
- (d) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

As added by P.L.2-1991, SEC.11. Amended by P.L.99-1997, SEC.1; P.L.98-1997, SEC.3; P.L.268-2003, SEC.27.

IC 9-23-2-8

Duration of licenses; expiration schedule

Sec. 8. A license issued under this chapter is valid for a one (1) year period in accordance with the following schedule:

- (1) A person whose business name begins with the letters A through B, inclusive, shall register before March 1 of each year.
- (2) A person whose business name begins with the letters C through D, inclusive, shall register before April 1 of each year.
- (3) A person whose business name begins with the letters E through G, inclusive, shall register before May 1 of each year.
- (4) A person whose business name begins with the letters H through I, inclusive, shall register before June 1 of each year.
- (5) A person whose business name begins with the letters J through L, inclusive, shall register before July 1 of each year.
- (6) A person whose business name begins with the letters M through O, inclusive, shall register before August 1 of each year.
- (7) A person whose business name begins with the letters P through R, inclusive, shall register before September 1 of each year.
- (8) A person whose business name begins with the letters S through T, inclusive, shall register before October 1 of each year.
- (9) A person whose business name begins with the letters U through Z, inclusive, shall register before November 1 of each year.

A sole proprietor shall register based upon the name of the sole proprietorship.

As added by P.L.2-1991, SEC.11. Amended by P.L.88-1996, SEC.3.

IC 9-23-2-9

Authority to transfer or assign motor vehicle title

Sec. 9. A person licensed under this article may transfer or assign a title for a motor vehicle.

As added by P.L.2-1991, SEC.11.

IC 9-23-2-10

Liability insurance or garage liability insurance coverage

Sec. 10. (a) A person licensed under this article shall furnish

evidence that the person currently has liability insurance or garage liability insurance covering the person's place of business. The policy must have limits of not less than the following:

- (1) One hundred thousand dollars (\$100,000) for bodily injury to one (1) person.
- (2) Three hundred thousand dollars (\$300,000) for bodily injury for each accident.
- (3) Fifty thousand dollars (\$50,000) for property damage.

(b) The minimum amounts required by subsection (a) must be maintained during the time the license is valid.

As added by P.L.2-1991, SEC.11. Amended by P.L.39-2000, SEC.9.

IC 9-23-2-11

Cessation of business activity

Sec. 11. A person who ceases a business activity for which a license was issued under this chapter shall do the following:

- (1) Notify the bureau of the date that the business activity will cease.
- (2) Deliver all permanent dealer license plates and interim license plates issued to the person to the bureau within ten (10) days of the date the business activity will cease.

As added by P.L.2-1991, SEC.11. Amended by P.L.176-2001, SEC.10.

IC 9-23-2-12 Repealed

(Repealed by P.L.60-1994, SEC.3.)

IC 9-23-2-13

Bureau revenues; deposit; expenses of administering article

Sec. 13. Except as provided in IC 9-29-1-5, all revenues accruing to the bureau under this article shall be deposited in the motor vehicle highway account. All necessary expenses incurred and all compensation paid by the bureau for administering this article shall be paid out of funds appropriated from the motor vehicle highway account for this purpose.

As added by P.L.2-1991, SEC.11.

IC 9-23-2-14

Denial, suspension, or revocation of licenses; grounds; proceedings; review

Sec. 14. (a) A license issued under this chapter may be denied, suspended, or revoked for any of the following:

- (1) Material misrepresentation in the application for the license or other information filed with the commissioner.
- (2) Lack of fitness under the standards set forth in this article or a rule adopted by the commissioner under this article.
- (3) Willful failure to comply with the provisions of this article or a rule adopted by the commissioner under this article.
- (4) Willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles.

(5) Engaging in an unfair practice as set forth in this article or a rule adopted by the commissioner under this article.

(6) Violating IC 23-2-2.7.

(b) Except as provided in subsection (d), the procedures set forth in IC 4-21.5 govern the denial, suspension, or revocation of a license and a judicial review. However, if the bureau denies, suspends, or revokes a license issued or sought under this article, the affected person may file an action in the circuit court of Marion County, Indiana, or the circuit court of the Indiana county in which the person's principal place of business is located, seeking a judicial determination as to whether the action is proper. An action may not take effect until thirty (30) days after the commissioner's determination has been made and a notice of the determination served upon the affected person. The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the commissioner's determination.

(c) Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a distributor branch, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

(d) A license may be denied, suspended, or revoked for violating IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of a license under this subsection. The bureau may issue a temporary order to enforce this subsection.

As added by P.L.2-1991, SEC.11.

IC 9-23-2-15

Sale of motor vehicle through Internet

Sec. 15. A dealer who sells a motor vehicle through the use of the Internet or other computer network shall deliver the motor vehicle to the customer at the place of business of the dealer in Indiana.

As added by P.L.74-2001, SEC.4.